

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SNERLING/PERSON, Minors.

UNPUBLISHED

April 8, 2014

No. 318075

Ingham Circuit Court

Family Division

LC No. 12-000290-NA

Before: WILDER, P.J., and FITZGERALD and MARKEY, JJ.

PER CURIAM.

Respondent appeals by right from the circuit court's order terminating her parental rights in the minor children in issue. We affirm.

In February 2012, the Department of Human Services filed a petition alleging that respondent was homeless and had recently been asked to leave the City Rescue Mission due to non-compliance with shelter rules. The petition also alleged that respondent had no income, failed to provide adequate supervision of her children and was being held involuntarily at Community Mental Health after reporting thoughts of harming herself and her children. The circuit court took jurisdiction over the children after respondent admitted the allegations. Dispositional review hearings were held in June, July, and August of the following year. At the conclusion of the last hearing, the circuit court ordered the termination of respondent's parental rights. The court found that statutory grounds for termination had been established under MCL 712A.19b(3)(c)(i), (g), and (j), and that termination of respondent's parental rights was in the best interests of the children. Respondent now challenges all of these findings.

We review for clear error both a trial court's decision to terminate parental rights and its decision regarding a child's best interests. *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). A trial court's finding is clearly erroneous when the appellate court is left with a definite and firm conviction that a mistake has been made. *Id.* at 209-210.

Defendant argues that the trial court erred by finding that MCL 712A.19b(3)(c)(i) had been established by clear and convincing evidence. MCL 712A.19b(3)(c)(i), reads as follows:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

The conditions that led to adjudication were respondent's homeless, unemployment, failure to supervise her children, and her thoughts of harming herself and her children. Evidence showed that respondent was being evicted from her apartment in June 2013 and continued to struggle with appropriately supervising her children. One of the case workers testified that she believed respondent was "going through the motions" with regard to services and was not benefitting from them. There was testimony that respondent was missing parenting-time sessions and that the appropriateness of her behavior in the sessions she attended was inconsistent. A therapist noted a repeated issue with respondent's giving food to her children that presented a choking hazard and that there was often very little verbal communication between respondent and her children during parenting times. This same therapist further testified that she conducted several visits at respondent's home, and that while the home was clean, respondent had left knives within the children's reach, allowed the children to wander unsupervised, and needed to be prompted to change an obviously wet diaper. She testified that respondent had stated that she did not think she needed to improve her parenting skills. The therapist eventually concluded that respondent was not benefitting from the services that were being offered and opined that respondent was not capable of providing for her children and would not be able to do so within a reasonable period of time.

Further, while respondent asserts on appeal that she addressed her employment issues, there was no testimony at trial establishing that respondent was employed or receiving any income outside of her support payments from petitioner.

Given this evidence, it was not clearly erroneous for the trial court to find that the conditions leading to adjudication continued to exist and were not likely to be rectified within a reasonable period of time.

Defendant also argues that the trial court erred by finding that MCL 712A.19b(3)(g) had been established by clear and convincing evidence. MCL 712A.19b(3)(g) provides that termination is warranted where "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age."

The evidence discussed above with respect to § 19b(3)(c)(i) is equally applicable here. The evidence, including respondent's own admissions, showed that respondent had failed to provide proper care and custody for her children in the past and had failed to benefit from the services that were offered to her to help in remedying the problems. Given respondent's failure to improve, it was not clearly erroneous for the trial court to find that respondent had failed to provide proper care and custody to her children and was not likely to be able to provide such care within a meaningful period of time.

Defendant also argues that the trial court erred by finding that MCL 712A.19b(3)(j) had been established by clear and convincing evidence. MCL 712A.19b(3)(j) provides that termination is warranted where "[t]here is a reasonable likelihood, based on the conduct or

capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent."

The evidence showed that respondent had failed to observe proper home and food safety in the past and had been resistant to requirements that she rectify those safety issues. Indeed, respondent resisted such changes to the extent that she was denied unsupervised parenting time at her home. Given respondent's failure to acknowledge the safety implications of her behavior, it was not clearly erroneous for the trial court to conclude that there is a reasonable likelihood respondent's children would be harmed if they were returned to her home.

Finally, respondent argues that the trial court erred by determining that the termination of respondent's parental rights was in the best interests of the children. The termination of parental rights is required when a trial court finds that one or more statutory grounds for termination have been proven by clear and convincing evidence and finds by a preponderance of the evidence that termination is in the child's best interests. MCL 712A.19b(3), (5); *In re Moss Minors*, 301 Mich App 76, 90; 836 NW2d 182 (2013). In deciding whether termination is in the child's best interests, the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012).

In this case, the evidence established that there was a limited bond between the children and respondent, that the children were in need of permanency, that respondent had limited parenting skills and had not improved those parenting skills despite being provided numerous services, and that respondent was unlikely to be able to provide care and custody to her children within a reasonable period of times. Given these facts, it was not clearly erroneous for the trial court to determine that termination of respondent's parental rights was in the best interests of the children.

We affirm.

/s/ Kurtis T. Wilder
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey